

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****FIRST APPEAL No. 2368 of 2003****HONOURABLE MR.JUSTICE KS JHAVERI**

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**KESHAJI MAGANJI MARWADI - Appellant(s)****Versus****BABUBHAI RAMJIBHAI BARENDA & 2 - Defendant(s)**

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**Appearance :**

MR MOHANBHAI DESAI for Appellant(s) : 1,

RULE SERVED for Defendant(s) : 1 - 3.

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**CORAM : HONOURABLE MR.JUSTICE KS  
JHAVERI****Date : 23/08/2006****ORAL JUDGMENT**

1. This appeal is at the instance of the original claimant for enhancement of the compensation as awarded by the Motor Accident Claims Tribunal, Sabarkantha at Himmatnagar dated 16<sup>th</sup> July 2002 in Motor Accident Claim Petition No.915 of 1992 whereby the Tribunal has awarded a sum of Rs.47040/-.

2. The case of the claimant is that the original claimant was that while he was proceeding on Harsol-Dhansura Road, Tempo No.GRW 2885 came in a rash and negligent manner and dashed with the truck resulting into serious injuries to the claimant. He, therefore, filed the aforesaid claim petition claiming a sum of Rs.1 lac by way of compensation. The Tribunal, after hearing the parties, awarded the amount

mentioned hereinabove.

3. Learned Advocate for the appellant submitted that the finding of the Tribunal that the appellant is contributory to negligence to an extent of 50%. According to him the Tribunal has committed an error in considering FIR and Panchnama as substantive piece of evidence. He further submitted that the Tribunal has committed an error in awarding lesser amount under various heads including the multiplier.

4. As a result of hearing and perusal of the record, it is found that the Tribunal has considered in detail the aspect of contributory negligence in para 5 of the judgement. In this regard, the Tribunal looked into the Panchnama and FIR which was the evidence on record and found that the appellant was contributory to the accident to an extent of 50%. Learned Advocate for the appellant is unable to point out anything from record to show that the aforesaid finding is erroneous, especially in view of the panchnama and FIR. As regards the compensation is concerned, it cannot be said that the amounts awarded under various heads are so inadequate that this Court requires to enhance the same. Looking to the overall facts of the case I am of the view that the Tribunal has considered all the claims and awarded maximum amount under each head.

6. In the premises aforesaid, no case is made out for enhancement of compensation. This appeal is, therefore, dismissed. No order as to costs.

[K.S. JHAVERI, J.]

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